United Nations A/HRC/32/49

General Assembly

Distr.: General
7 April 2016

Original: English

Human Rights Council
Thirty-second session
Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretariat

In the present report, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance addresses developments that he has identified with regard to the continuing human rights and democratic challenges posed by extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements. He also reflects on the issue that he has reported on for in previous reports. The Special Rapporteur remains deeply concerned by the problem of extremist movements and continued expressions of glorification of Nazism by some groups.

The Special Rapporteur notes that there have been no major developments since the presentation of his previous relevant reports to the General Assembly and to the Human Rights Council, and that past recommendations made on the issue are still applicable.

The Special Rapporteur summarizes the general trends identified to date with regard to the human rights and democratic challenges that extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements, continue to pose. He concludes the report by reiterating his conclusions and recommendations made in previous reports.

GE.16-05650(E)

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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to General Assembly resolution 70/139, in which the Assembly requested the Special Rapporteur to prepare, for submission to, inter alia, the Council at its thirty-second session, a report on the implementation of that resolution on combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, based on the views of Governments and non-governmental organizations.

2. Also in resolution 70/139, the General Assembly recalled the request of the Commission on Human Rights, in its resolution 2005/5, that the Special Rapporteur continue to reflect on that issue, make relevant recommendations in his future reports, and seek and take into account in that regard the views of Governments and non-governmental organizations.

3. In the present report, the Special Rapporteur addresses development that he has identified with regard to the continuing human rights and democratic challenges posed by extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements. He also reflects on the issue that he has reported on in previous reports. The Special Rapporteur remains deeply concerned by the problem of extremist movements and continued expressions of glorification of Nazism by some groups.

4. The Special Rapporteur notes that there have been no major developments since the presentation of his previous relevant reports on the issue to the General Assembly (A/69/334 and A/70/321) and to the Human Rights Council (A/HRC/23/24, A/HRC/26/50 and A/HRC/29/47), and that past recommendations made on the issue are still applicable.

II. Information received relating to the existence of extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements

5. The Special Rapporteur remains deeply concerned at the continuing spread of violent incidents incited by nationalism, racism, xenophobia and related intolerance worldwide, and continues to express concern at the glorification of the Nazi movement in specific areas. He notes with concern recurring practices that fuel contemporary forms of racism and pose a challenge to the protection and consolidation of democracy and human rights, and the protection of vulnerable groups of individuals against racist and xenophobic crimes.

6. During the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa, in 2001, and in the Durban Declaration and Programme of Action subsequently adopted, States recognized that political manifestos and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination were irreconcilable with the principles of democracy and good governance.

7. As noted in his previous thematic reports to the Human Rights Council (A/HRC/23/24, A/HRC/26/50 and A/HRC/29/47), the Special Rapporteur has continued to receive information that extremist political parties, movements and groups have continued to gain influence in several countries and regions. In Europe in particular, there has been a trend of a number of local and regional parliamentary seats won by representatives of extremist political parties. The Special Rapporteur is concerned that, in some States, some mainstream political parties continue to form coalitions with extremist political parties; for this reason, he emphasizes the need for all democratic political parties to base their programmes and activities on respect for human rights and freedoms, and to condemn political messages that have the objective of fuelling racist, xenophobic, discriminatory or intolerant ideas.

8. The stigmatization and targeting of vulnerable groups, such as migrants and refugees, continues. The Special Rapporteur is concerned at the increasing tendency of political leaders to blame certain groups for high unemployment rates, cuts in social benefits and increasing poverty. Individuals of the Muslim and Jewish faiths, persons of African descent and individuals from the Roma communities continue to be singled out, stigmatized and subjected to violence, which can take the form of arson attacks on houses and the vandalizing of school property or places of worship. The Special Rapporteur also received information on threats against Muslim women wearing headscarves and physical attacks on imams at mosques. As stated in his previous reports, political leaders should take all the measures necessary to address social and economic issues in an appropriate manner, especially during periods of economic recession, to condemn strongly expressions of racism, xenophobia and related intolerance, and not to use extremist rhetoric, a practice particularly observed during electoral campaigns with a view to winning elections (see A/HRC/26/50 and A/HRC/29/47).

9. The Special Rapporteur also notes acts that, following a similar pattern, glorify Nazism, such as the painting of swastikas on monuments dedicated to victims of the Holocaust or in Jewish schools, and the desecration of Jewish cemeteries. He reiterates his condemnation of attempts by extreme right-wing groups to deny the Holocaust and to falsify history. Such revisionism contributes to the rehabilitation and dissemination of Nazism and other extreme ideologies, and creates fertile ground for nationalist and neo-Nazi demonstrations. The Special Rapporteur recalls the importance of criminalizing the approval, denial or belittlement of the Holocaust in national law, especially considering that such denial could promote racist rhetoric and, as such, constitutes hate speech under article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination.

10. As mentioned in previous thematic reports of the Special Rapporteur, racist and intolerant hate speech in political discourse has also escalated in the media, on the Internet, namely on social networks, in particular against migrants in general, including refugees and asylum seekers, in addition to individuals from the Muslim and Jewish faiths and Roma communities (see A/HRC/26/50 and A/HRC/29/47). The Special Rapporteur is also concerned that extremist movements and groups are actively present on the Internet and social media networks and publish material on their websites, or on those of sympathetic organizations, which promote and incite racial discrimination and violence and are a means of expanding their network of supporters worldwide. The Special Rapporteur also notes that, in many States, systems in place for sanctioning violations of relevant legislation relating to social media are ineffective. He notes with regret that very few cases of hate speech have been sanctioned by justice systems, and also that the conviction rate remains very low.

11. The Special Rapporteur received information regarding cases of extremism in police forces. It was reported that, in some States, members of the police force openly propagate

far-right, nationalistic and xenophobic ideas and discourse in their official capacity as guardians of public order and civil servants of the State (see also A/HRC/23/24 and A/HRC/29/47). He is particularly concerned at reports indicating that, in some Eastern European States police officers are sometimes reluctant to intervene to stop harassment, verbal abuse or violent attacks and/or to receive complaints from victims of racist and xenophobic crimes, particularly migrants and those from minority groups, and to investigate those incidents. The Special Rapporteur is also concerned at allegations of increasing police involvement in crimes of sexual and gender-based violence against women of African descent and women from ethnic minorities, which often go unreported or are not thoroughly investigated.

12. The Special Rapporteur takes this opportunity to reiterate his concerns that many racist crimes go unreported owing to the reluctance of victims to come forward and report incidents to the appropriate authorities for fear of reprisal or prosecution (especially if their residence status is precarious or irregular), a belief that police will not investigate, or a lack of trust in the criminal justice system, in addition to language barriers and ignorance of their rights (see also A/HRC/23/24 and A/HRC/29/47). Furthermore, the lack of accurate and current ethnically disaggregated data, including sex-disaggregated data, particularly regarding irregular migrants and asylum seekers, may give the impression that racist crimes by extremist political parties, movements and groups do not exist or are less prevalent than they actually are. The Special Rapporteur urges States to take further measures to better engage with victims in order to mitigate their fears, and to create a sense of trust between victims, police and prosecution. States and civil society entities should also establish detailed systems for recording, reporting and monitoring such incidents and for encouraging victims to report them.

13. The Special Rapporteur also received reports of attacks by individuals and groups linked to far-right and neo-Nazi groups on homosexual, bisexual, lesbian and transgender individuals. The same groups that attack, discriminate and promote discrimination against racial minorities are also involved in attacks against individuals on the basis of their sexual identity. The Special Rapporteur is of the opinion that the identity of an individual is made up of multiple components, including gender, age, nationality, profession, sexual orientation, political opinion, religious affiliation and social origin; tolerance, mutual understanding and respect for all, without prejudice, stereotyping or discrimination, should therefore be the basis of human relations of any kind. He also notes the multiple and often interlinked forms of discrimination that individuals face on the basis of their race, colour, descent, national or ethnic origin or sexual orientation, and in this regard draws attention to the underreporting of racial violence directed at homosexual, bisexual, lesbian and transgender persons. He therefore urges States to take the measures necessary to address the intersectional nature of different forms of discrimination.

14. With reference to his previous reports (see A/HRC/26/50 and A/HRC/29/47), the Special Rapporteur expresses his concern at the increase in reported cases of racist symbols and banners displayed during football matches, and the racist slogans and gestures used on those occasions. Given the important role that professional athletes play in inspiring young people, those incidents are of particular concern. Once again, the Special Rapporteur reiterates his view that there is no place for racism and intolerance in sport. He recalls the requirements set out in Human Rights Council resolution 13/27, in which the Council urged States and relevant international and regional organizations to intensify the fight against racism in sport, including by developing and implementing codes of conduct that address the issue of extremist ideologies and intolerance among supporters.

III. Conclusions and recommendations

15. Given that the situation has not changed in the period that the Special Rapporteur has reported on the issue, he reiterates the recommendations made in his previous reports submitted to the Human Rights Council (A/HRC/23/24, A/HRC/26/50 and A/HRC/29/47) and the General Assembly (A/69/334 and A/70/321), as they remain valid and relevant. They are summarized below, clustered by thematic area.

16. The Special Rapporteur requests all States to submit information regarding measures taken within their respective territories in relation to the provisions set out in General Assembly resolution 70/139 on combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

A. Political measures

17. The Special Rapporteur appreciates the efforts made by States to counter extremist political parties, movements and groups, including neo-Nazis, skinhead groups and similar extremist ideological movements. While good practices have been identified, important challenges remain. The Special Rapporteur is of the view that a comprehensive approach based on a solid legal framework, complemented by other measures, including key policy measures such as education and awareness-raising programmes, and a victim-centred approach should be developed further and implemented.

18. States should always bear in mind that preserving and consolidating the values of democracy are essential to preventing and combating racism, racial discrimination, xenophobia and related intolerance effectively. Political leaders and parties must therefore unequivocally condemn all messages disseminating ideas based on racial superiority or hatred, incitement to racial discrimination or xenophobia. They should be aware of the moral authority they bear, promote tolerance and respect, and refrain from forming coalitions with extremist parties of a racist or xenophobic character.

B. Legislative measures

19. As stated in the outcome document of the Durban Declaration and Programme of Action, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law, as should be the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, and all acts of violence or incitement to such acts. In that regard, the Special Rapporteur calls upon all States to respect the commitments made in the Durban Declaration and Programme of Action, which is a comprehensive framework for action against racism, racial discrimination and xenophobia. He also recommends that States adopt legislation that conforms to international human rights standards, including the International Convention on the Elimination of All Forms of Racial Discrimination, paying particular attention to their obligations under article 4 of the Convention. In that connection, States should introduce into domestic criminal law a provision to the effect that the commission of any offence with racist, xenophobic, anti-Semitic or homophobic motivations or aims constitutes an aggravating circumstance attracting heavier sanctions.

20. The Special Rapporteur reiterates that States have an obligation to prosecute the perpetrators of crimes with racist, xenophobic or anti-Semitic motivations and to

fight against impunity. States should ensure prompt, thorough and impartial investigation into such crimes, and that those responsible are adequately sanctioned.

21. The Special Rapporteur urges States to ensure that victims of crimes motivated by racism or xenophobia have full access to effective legal remedies, including the right to seek reparation for damages suffered as a result of such crimes. He also recommends that States ensure that victims of racist or xenophobic crimes are provided with the necessary legal, medical and psychological assistance and are made aware of their rights and of existing judicial and non-judicial remedies. States should further engage with vulnerable groups or minorities who are at particular risk of racist or xenophobic crimes, with the aim of restoring confidence in law enforcement officials and the criminal justice system, and facilitate better reporting of such crimes.

C. Disaggregated data

22. The Special Rapporteur reiterates the recommendations made in previous reports, in particular those made in his most recent report submitted to the General Assembly (A/70/335), that States should collect disaggregated data and statistics on racist, xenophobic and anti-Semitic crimes in order to identify the types of offences committed, the characteristics of the victims and of the perpetrators and whether they are affiliated with an extremist political party, movement or group. States should provide adequate financial, human and technical resources to improve the quality of data collection systems where those already exist, while ensuring that civil society is involved in the process, which is to be undertaken in such a way as to guarantee the protection of privacy.

D. Education

23. The Special Rapporteur recalls that education remains the most effective means of countering the negative influence that extremist political parties, movements and groups may have on young people. Recalling paragraph 136 of the Durban Programme of Action, and his relevant thematic report submitted to the Human Rights Council at its twenty-third session (A/HRC/23/56), he recommends that States recognize the important role of education in combating racism, racial discrimination, xenophobia and related intolerance, especially in promoting the principles of tolerance of and respect for ethnic, religious and cultural diversity and preventing the proliferation of extremist racist and xenophobic movements and propaganda, in particular among young people. He also reiterates his recommendation made in the said report that States should recognize the important role of formal and non-formal education in the deconstruction of prejudices, the positive change of negative perceptions, greater understanding and stronger social cohesion.

24. The Special Rapporteur condemns any denial or attempt to deny the Holocaust and all manifestations of religious intolerance, incitement, harassment or violence against persons or communities based on ethnic origin or religious belief. He encourages States to take concrete measures, including legislative and educational ones, such as inclusion of education about the Holocaust in school curricula, so as to prevent revisionism of the Second World War, the denial of the Holocaust and the Nazi genocide. He also encourages the active preservation of the sites that served as Nazi death camps, concentration and forced labour camps and prisons.

E. Capacity-building

25. The Special Rapporteur recommends that the capacity of law enforcement officials and members of the judiciary be strengthened further to address crimes

motivated by racist, xenophobic, anti-Semitic or homophobic biases. Comprehensive and mandatory human rights training, including training with a specific focus on racist and xenophobic crimes perpetrated by individuals linked to extremist political parties, groups and movements, should be provided to public officials, including law enforcement agents, who should also be provided with the necessary guidelines and procedures to be able to identify, investigate and register such crimes. He emphasizes that States should also ensure that law enforcement agents engage with vulnerable groups particularly at risk of racist, xenophobic or anti-Semitic crimes, in order to mitigate their legitimate fears and concerns, restore confidence in the application of the rule of law, and encourage them to report such crimes adequately.

F. Racist or xenophobic discourse online

26. The Special Rapporteur notes with concern the increased use of the Internet and social media to promote and disseminate racist content. States should take all opportunities to counter the dissemination of ideas based on racial superiority or hatred, and to promote the values of equality, non-discrimination, diversity and democracy, while respecting their obligations under articles 19 and 20 of the International Covenant on Civil and Political Rights. While taking measures to counter extremist ideas and biases, States should endeavour to strengthen freedom of expression, which plays a crucial role in promoting democracy and combating racist and xenophobic ideologies.

G. Sport

27. The Special Rapporteur recalls his recommendations on strengthening measures to prevent racist and xenophobic incidents at sporting events, noting the key role of sport in promoting cultural diversity, tolerance and harmony. He also recalls paragraph 218 of the Durban Programme of Action, which urges States, in cooperation with intergovernmental organizations, the International Olympic Committee and international and regional sports federations, to intensify the fight against racism in sport by educating the youth of the world through sport practiced without discrimination of any kind.

H. Civil society

28. The Special Rapporteur recalls the importance of cooperating closely with civil society and international and regional human rights mechanisms. In particular, the role played by civil society in collecting information, working closely with victims and promoting democratic principles and human rights should be emphasized. He calls upon national human rights institutions to develop appropriate programmes to promote tolerance of and respect for all, and to collect relevant information thereon.